IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9178 of 2002

with

SPECIAL CIVIL APPLICATION No 9179 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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PRATAPSINH SIDHUNA JADENA

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 9178 of 2002
   MR KS JHAVERI for Petitioner No. 1
   Ms MANISHA LAVKUMAR, AGP, for Respondent No. 1-2
   MR DILIP B RANA for Respondent No. 3
2. Special Civil Application No. 9179 of 2002
   MR KS JHAVERI for Petitioner No. 1
   Ms MANISHA LAVKUMAR, AGP, for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/12/2002

COMMON ORAL JUDGEMENT

Rule. Ms Manisha Lavkumar learned AGP waives service of rule for respondents No.1 and 2 and Mr DB Rana waives service of rule for respondent No.3- Bank.

2. What is challenged in these petitions under Article 226 of the Constitution is the order dated 28-8-2002 passed by the Joint Registrar (Advances) of Cooperative Societies, Gujarat State directing the Chairman/ General Manager of the Jamnagar District Central Cooperative Bank Ltd. for removing the petitioners (Pratapsinh Sidhuna Jadeja and Raghubhai Manjibhai Mungra) from the office of Directors of the Bank on the ground that they were defaulters on 31st March, 2001.

3. The grievance in the present petition is that the impugned orders are passed in violation of the principles of natural justice. Secondly, that the said Directors were not defaulters in their personal capacity but the allegation was in respect of the Cooperative Socieites whom they represented or the partnership firm in which they were partners. Finally on merits, it is submitted that the time limit for repayment of loans was extended to 31st March, 2003 in view of the fact that Jamkhambhalia and Dhrod in Jamnagar district were earthquake affected and, therefore as per the R.B.I. guidelines dated 12-2-2001, the Cooperative Societies/ partnership firm in question wre entitled to repay their loan amounts by 31st March, 2003 without incurring any disqualification or disability.

4. Ordinarily, the matter would have been required to be remanded in view of the fact that the petitioners were not given any opportunity of being heard.

5. As regards the contention that the petitioners were not defaulters in their personal capcity but the defaulters were the Cooperative Societies whom they represented or the partnership firm in which they were partners, the contention cannot be accepted because when the petitioners represent Cooperative Societies on the Board of Directors of the District Cooperative Bank and necessarily the disability/ disqualificaton arising from non-payment or late payment of loans by Coop. Societies must attach to the representatives as well.

6. But in any case, the petitions deserve to be allowed on the ground that the time limit for making repayment of loans in question was extended till 31st March, 2003 and the concerned cooperative society/ partnership firm had repaid their loans before 31st March, 2002 as per the statement made by the petitioners and as confirmed by the Bank by their letter dated 11-5-2002 at Annexure `C' to the petitions.

In view of the aforesaid factual position, no useful purpose would be served by remading the matter to the authorities for any further hearing.

7. The petitions are accordingly allowed. The impugned orders dated 28-8-2002 at Annexure `A' in each petition are quashed and set aside.

Rule is made absolute with no order as to costs.

(M.S. Shah,J)

zgs/-